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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,153	03/05/2001	Gregory A. Sims	SIMSG 01-01.PA	4533

7590

02/12/2003

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,153

Applicant(s)

SIMS, GREGORY A.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention I (claims 1-12) in Paper No. 4 is acknowledged. The traversal is on the ground(s) that: claims 18 and 19 require a manifold; claim 16 recites "measuring the amount of pesticide injected through the port" (this being a typographical error and should be a new paragraph within the claims); and distribution system is implicit and "manifold" is a very broad term. This is not found persuasive because: claim 17 is an evidence claim for patentability without the manifold; acknowledging the typographical error of claim 16, Invention I (claim 1) can be used to practice another and materially different process which do not require a processor. Based on the typographical error, restriction between Invention III and IV is withdrawn but they remain patentably distinct from elected Invention I as indicated above. Examiner acknowledges that Claims 16-19 should be grouped into one Invention.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 13-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson (4,800,672).

Jackson discloses a system for distributing pesticide comprising: a port 63; a distribution manifold 57; a plurality of elongate tubing members 55, 52, 51; fluid discharge openings 53.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672).

With respect to claims 3 and 4, Jackson discloses the limitations of the claimed invention with the exception of the at least six outlets and at least eight outlets. Jackson schematically shows, in figure 4, two additional lines leading from selector valve 60. It would have been obvious to a person having ordinary skill in the art at the time of the

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invention to have provided additional outlets to the device of Jackson for utilization in large buildings and/or provide additional distribution zones.

With respect to claims 10 and 11, Jackson discloses a flow measuring means 54. Jackson does not disclose a recording means. Flow-measuring means and recording means for providing a printed record are well known in the art. For example gas station pumps have flow sensors and provide printed receipts. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a a recording means to the device of Jackson to provide a receipt for record purposes.

With respect to claim 12, Jackson discloses a flow measuring means 54 (a pressure gauge) but it is not audible. Audible indicators are well known. For example, air dispensers for inflating tires have audible bell indicators instead of pressure gauges to indicate how much air is dispensed. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided an audible signal means instead of the pressure gauge in the device of Jackson for use by visually impaired persons.

7. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672) in view of Manciet (6,463,694).

It should be noted that air is usually not considered an inert gas but the examiner is utilizing applicant's definition in the specification, on page 6, lines 23-24, wherein it recites "inert gas, such as compressed air (or nitrogen)."

Jackson discloses the limitations of the claimed invention with the exception of the details of the injection device. Manciet discloses, in figures 13-14, an injection

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device comprising: an inert gas inlet 1306; a pesticide inlet 1330; a valve means 1324.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the injection device of Manciet to the system of Jackson to enable and provide a mobile supply source.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Woodson; Lundwall; Cretti; Tallon; Jenkins; King et al. disclose pest control systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CK
February 7, 2003



**CHRISTOPHER KIM
PATENT EXAMINER**